721 temporary ritual privileges in the important Nambudiri-managed temples of alien kingdoms. Several times rights in such a temple were obtained by an alien ruler, and held for a period of years at the cost of repeated battles with the king within whose territory the temple stood.

643 701 664 The power of the king to command his Nayar retainers was checked by periodic assemblies of Nayars (koottams). If the king's foreign policy were disfavoured by the Nayars of a particular nad, or if their own chief failed to pay them promptly, the village military leaders, with some of their followers, assembled in a body called a nad koottam and threatened to defect to some alien ruler. This occasionally happened: cases are recorded of the defection of a whole nad from one ruler to another. Similarly within the desam, small assemblies called desa-koottams might force their policy on their local leader or stage a strike until they compelled him to pay them their dues.

692 681 Within the kingdom, justice was administered at several levels. First, each local caste group had its own periodic assembly of adult men to punish offences against caste law [33] and to arbitrate in small civil disputes within the caste. For the larger castes of Iravas and Pulayas the local caste group was the village: married men met periodically to arrange public ceremonies of their caste and punish offenders. These comprised chiefly wrongful interdining, small debts, thefts and assaults within the caste, and intra-caste adultery. Fines for the upkeep of the caste

692 shrine and temporary ostracism were the chief
681 punishments, but at least among Iravas, grave offenders were sometimes excommunicated with the consent of the janmi and sold in slavery to
623 Arab traders. The smaller castes of village servants each had their own assemblies extending over a group of adjacent villages, who met
[582] chiefly at marriages and funerals. In all of these castes, the local group of the assembly, while not strictly endogamous, was the group within which the majority of marriages took place.

631 Among retainer-Nayars, the local group might
692 comprise either one large desam, or a group of
681 two to four adjacent desams when these were occupied by retainer Nayars of the same subcaste. Such an area was called a tara in South Malabar and a kara in Cochin, the assembly, a tara-koottam or kara-yogam. The assembly comprised the headmen of all Nayar property-groups who met to settle intra-caste disputes, adjudicate in trials of offences against caste law and arrange the public ceremonies of their common Bhagavadi temple. Offences such as wrongful interdining with low caste men, small debts, thefts and adultery with women of the lower polluting castes were punished by fines paid to [34] the Bhagavadi temple, or in grave cases by excommunication, and sale into slaver. Similarly intra-caste offences were settled among desavaris within an assembly of the nad, and among nadavaris within an assembly of the kingdom. The local Nayar assembly also had power to arbitrate in disputes and offences against the village at large among the lower castes. Some

631 cases were carried voluntarily by low caste
692 disputants of different castes to the Nayar ass-
681 embly, but this might also step in by forces in disputes which threatened the peace of the village. Punishments included beatings and fines
[56] to the temple. However, Nayars and Nambudiris had also the power of life and death over their serfs and might have these killed without recourse to a higher authority. Any Nayar had, for example, the right to spear at sight a Pulaya who accidentally touched him, refused to recede from his approach, or insulted a Nayar woman.

681 In the castes above the serfs, grave crimes
692 were carried to the court of the king. Murder, sacrilege, the wounding of a cow or of a Brahman, and theft from a man of "good" caste, were punishable by death. Brahmans and women, however, were never officially put to death. Brahmans were excommunicated by their own assemblies, women were sold into slavery with the Arabs. If, however, a Nayar woman fornicated with a man of lower caste (an offence legally punishable by excommunication and slavery) it is recorded that in fact her own brothers, with the tacit consent of [35] the ruler, would themselves spear her to death. The death sentence for men of the polluting castes was impalement, for Nayars, spearing, and for Muslims, hanging. Unsolved civil disputes between high caste men and Muslims were tried in the royal court by ordeal, usually of boiling oil.

564 It is interesting to notice that the higher the
571 caste, the wider the field of social relations.
631 For the serfs and lower polluting castes, this

613 range. The rule of exogamy, and the sense of close kinship which bound members of a lineage meant that the local subcaste group of the kara (whether this comprised one or more lineages) was divided into a small number of compact groups. At assemblies the members separated out into lineage groupings. Only the legal heads (karanavans) of property-groups attended such assemblies, and within each lineage these tended to defer to each other on the basis of age, spokesmanship being left to the eldest man(also sometimes called a karanavan) of the lineage as a whole.

613 Though it owned no property in common, the
•681 lineage was in some contexts a corporate group in the sense of having legal responsibility for its members' acts. If some member of a lineage broke a caste law, for example by dining or fornicating with a low caste person or failing to pay dues to the temple, his whole lineage was temporarily ostracized by the assembly until it called him to book. [42] His property-group must then pay a fine (prayaschittam) to the assembly and he must go through a rite of purification before his lineage could be readmitted to caste. In cases of grave offence such as fornication with a Paraya woman, his lineage was during British rule ostracized until he had been excommunicated from lineage and caste and his funeral rites performed; during native rule until he had been executed by order of the chief of the king.

613 In other ways, the lineage held itself respon-
628 sible for disputes entered into by its members.

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castes seem to have received a military training, although some, especially of the Agattu Charna caste, later became clerks (Dames, 1921: 18–19; A. Gray, 1887, I: 412–413).

The Nayars' traditional arms were the sword, shield, lance, and the bow and arrow, although gunpowder came into increasing use after the Portuguese arrived. Before 1500 battles were highly stylized (cf. C. A. Menon, 1911: 56; Ayyar, 1938: 118, 171). Not more than 10,000 were commonly brought into the field at one time. Severe loss of life was prevented by the employment of Brahman emissaries who, if fighting became intense, might enter the field and arbitrate between the leaders. If, however, the king or a chief were slain, his personal vassals had to fight to the death or until their honor was avenged by the slaughter of a corresponding leader on the enemy side (Logan, 1951, I: 138).

Later, with the introduction of cannon and fortresses by the Europeans, battles became more frequent and devastating. The Zamorin mustered a total force of between 50,000 and 60,000 at various times in the sixteenth and seventeenth centuries against the ruler of Cochin (Ayyar, 1938: 169, 182). The kings had to rely increasingly on paying their soldiers in cash rather than on sporadic feudal levies. Permanent conquest and the control of rich lands also became a more urgent aim of the kings as the overseas trade expanded. But the Nayar techniques of fighting and their code of honor persisted until British times.

Within each kingdom, law was administered at several levels. Each local caste group had its own periodic assembly of household heads to judge crimes (which were also sins) against the caste's religious laws. These included wrongful interdining and sexual relations with members of other castes. The chief punishments were fines for the upkeep of the caste shrine and temporary ostracism. Grave offenders were excommunicated with the consent of the chief. They then became the property of either king or chief and were sold as slaves to foreign traders. In the larger castes such as Tiyyars or Pulayas the local caste group was often contained within the village. The smaller castes of village servants each had their own assemblies extending over a group of adjacent villages.

Among retainer Nayars the local caste group might comprise the Nayars of one caste within one village, within a section of a large village, or within a group of two to four adjacent small villages. This area was called a *tara* in the Calicut kingdom and a *kara* in Cochin; we shall call it a neighborhood. Its assembly was called a *tara-kūttam*

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formal recognition that the bereaved lineage, freed from its death pollution, had been received back into the normal social life of the caste.

Lineage members were also united in worship of their lineage goddess or *dharma devi* ("goddess of moral law"). This goddess, named differently in different lineages, was a species of the common Nayar goddess Bhagavadi. Her idol was housed in a small shrine near the oldest ancestral house or sometimes in the courtyard of the village temple. She was believed capable of inflicting or withholding sickness and all types of misfortune. To ward them off, members propitiated her with offerings of cooked food every year. The astrologer might also advise an emergency propitiation. She had the power to bless women of the lineage with fertility. On this account she was worshipped before a tāli rite and also at the first menstruation ceremonies of a girl. In a somewhat vague sense, moreover, lineage members appear to have felt themselves collectively responsible to the goddess for sins or ritual lapses on the part of one of them. It was believed that if any member failed to observe the religious laws of caste, to perform household duties correctly, or to revere the goddess, she might bring sickness or misfortune upon the lineage as a whole.

In spite of this sense of collective moral responsibility, the evidence is unclear as to whether the lineage as a whole was held legally responsible for any of its member's acts. It is true that the enangar were the legal representatives of the local caste unit in its relations with the lineage. This inter-lineage relationship was hereditary and obligatory. It could not be entered into or permanently broken without the consent of the assembly and the chief of the district. If, moreover, an individual infringed a religious law of the caste, it was the duty of his lineage's enangar to summon a caste assembly to judge and punish the offense. Crimes, which were also sins, against caste law included incest within the lineage; dining or sex relations with prohibited lower-caste persons; failure to perform the marriage rite of a girl before she reached puberty; failure to observe pollution at the birth or death of a lineage member or (on the part of an individual woman) during menstruation; failure to pay dues in kind to the Nayar temple of the neighborhood. On being apprized of an offense, the assembly's first recourse was temporarily to ostracize the offender's household from the caste community. Ostracism meant that the offenders might not enter the temple, bathe in public bathing pools, enter the houses of other Nayars, employ the village servant

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castes, or receive customary help from their enangar at life-crisis ceremonies. If the ostracism was not effected it was believed that the whole neighborhood would fall into disfavor with the caste goddess and might become prey to epidemic or crop failure.

The point on which I am uncertain is whether the lineage as a whole was ostracized, or whether other branches of the lineage normally retained their caste status by severing their own connections with the offender's property group. The latter actually occurred in a case in Cochin in 1924. A Sudra Nayar woman had sex relations with a man of the caste of Nayar funeral priests. Shortly after the assembly met, the other houses of her lineage repudiated all connection with the offender's household, which alone remained ostracized for a year. The woman and her lover then fled to Malaya. The household paid its fine and was reaccepted to caste. I do not know whether it was possible under native rule for a lineage to repudiate its responsibilities in this way.

Minor offenses, such as dining with low-caste people, were settled by the offender's property group paying a fine to the village temple. The offender and his household were purified from their pollution by certain ritual acts. They then gave a feast to their enanger at which they were publicly reaccepted to caste. Traditionally, graver offenses (such as the one above) met harsher penalties. The caste's judgment on such an offense traditionally had to be ratified by the district chief or by a royal officer. The offender was then either executed by his immediate matrilineal kin or surrendered to the king for sale into slavery. His household members performed his funeral rites and only then were they taken back into caste.

Whether or not the lineage as a whole was held collectively responsible for offenses against the religious law of the caste, it was not held responsible for civil wrongs judged by the village headman or for crimes judged by the chief or by officers of the royal court. The property group, headed by its kāranavan, and not the whole lineage, was responsible in cases of theft, debt, or other offenses concerning property which were judged by the village headman. With regard to a major crime, a Nayar who murdered another was tried in the court of the king or of a higher chief. If the murdered man was of the same or a higher caste than the murderer, the murderer was executed by a small group of Nayars selected by the judge. If the murdered man was of lower caste, the murderer's property group had to pay a fine to the district chief. Again, if a Nayar of any rank committed treason

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in her care particular daily tasks in connection with cooking, housework, the pounding of paddy, and the tending of small children. The minimal unit of one woman and her own children, although having a special solidarity emotionally, was given very little recognition in the division of work. Women cooked communally in the kitchen, bathed and washed their own and any children's clothes in company in the bathing pool, and at the harvests moved in household groups to the fields to help the serf women of their families in cutting paddy. Nayar women's agricultural work, however, was subsidiary and they took no part in the more arduous tasks of transplanting and weeding.

The women of a Nayar retainer lineage also owed services to women of the landlord household to which their lineage was attached. Although their lower-caste rank prevented them from touching their mistress or entering her kitchen, they swept the house, accompanied its womenfolk to their bathing pool, and did various household chores. The landlord household normally chose three or four favorites from among the lineages attached to them to perform these services, but women of any retainer household might be summoned during the special preparations for a feast.

Authority and Responsibility Property groups, rather than lineages, were the main legal units within the local caste group. Their kāranavans formed the neighborhood assembly. Within the assembly, a kāranavan acted on behalf of his property group in managing the Nayar temple, settling small civil disputes in his own and lower castes, and adjudicating in cases of offense against Nayar religious law.

A kāranavan also represented his property group in its relations with its feudal lord and with higher authorities of the kingdom. We have seen that the property group and not the lineage held land on tenure from its landlord, and that although a lineage was attached to a landlord by hereditary right, the landlord conducted all economic transactions separately with the head of each property group within it. Similarly, each kāranavan was required to represent his own property group in ceremonial attendance on his village landlord, the chief of his district, or (if he were a direct vassal of the royal lineage) his king, at religious festivals associated with the temples of these dignitaries.

On behalf of his property group, a kāranavan was held legally responsible for his juniors in most types of legal offense. He paid their fines from taravād funds if they were found guilty of petty theft or debt before the village headman or the chief. If a member of the taravād was convicted in the royal court of treason, his kāranavan and

his whole property group might be put to death. Conversely, the property group as a whole was rewarded for extraordinary military valor on the part of one of its members. In a period of conquest of a new district, the king sometimes removed from office recalcitrant village headmen or even chiefs of the enemy side and replaced them with property groups from among his own following. Again, when a soldier died fighting with exceptional bravery, his chief sometimes rewarded his property group with a plot of land held on a special military tenure, under unusually favorable terms.

As we have seen, the property group had the prime responsibility for an individual convicted by the neighborhood assembly of offense against the religious laws of caste.

The kāranavan's day-to-day authority over his juniors was conferred upon him by his feudal lord, backed by the judicial authority of the king. He had the right to command and discipline all junior members. In cases of extreme disobedience he might inflict corporal punishment on the women or children, or cause a junior man of the taravād to do this. He seems to have had the right temporarily to expel from the household and to deny maintenance to junior men who insulted or disobeyed him. As manager of the estate he also had disciplinary rights over the taravād's tenants. In serious matters the tenants had recourse to the village headman, perhaps to the chief, but their own master settled minor disputes among them and fined them for small offenses. In law a kāranavan appears to have had complete rights of life and death over his property group's serfs. A very few cases are recorded of his exercising it to the full. More common are the stories of extraordinary loyalty between serf and master, especially of serfs who died fighting to defend their lords' homes. Their spirits were rewarded with a place in the taravād's ancestral shrine.

It is clear that whatever his *de jure* authority, the kāranavan's *de facto* authority was greater over women and children than over junior men, who were often absent on military service. It seems probable that at these times soldiers came under the direct legal control of officers of the kingdom and that in at least some contexts their property groups were not held responsible for them. We know for example that if a Nayar soldier murdered another he was tried in the court of the king or of a feudatory prince and, if convicted, was executed promptly by four or five of his peers, presumably without his property group being consulted or punished. Thieves caught within the boundaries of coastal towns seem to have been similarly dealt with (Barbosa, 1518, quoted in Ayyar, 1938: 284–286). It may be that their

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property groups were held legally responsible for Nayar men only when they committed high treason or when they became engaged in disputes and offenses within the neighborhood of their birth.

It seems probable that the kāranavan's powers over his juniors and over their property were limited by the codification of law which came about during British rule (Aiyar, 1922: 33–132). It is not clear whether he could traditionally alienate land without the consent of other adults of the taravād; during British rule he could not. British law also permitted appeal to the court by junior members for the removal of a kāranavan who could be shown guilty of gross mismanagement. He could then be set aside in favor of his immediate junior. An inefficient kāranavan could moreover be forced by the court to maintain accounts of his income and expenditure. Since 1933 in Malabar District and 1938 in Cochin, all kāranavans have been legally obliged to do this and to make available their accounts for inspection by junior members once a year, as provided in the Madras Marumakkattayam (Matriliny) Act, 1933, and the Cochin Nayar Act, 1938. However, few juniors avail themselves of this right, which is evidently repugnant to the traditional ideals of obedience and trust toward elders of the taravād.

Even traditionally, however, both junior men and women were often consulted in the management of the group's affairs. If a dispute arose between minimal segments of the taravād it was common for appeal to be made to an arbitrator of the caste from outside the lineage. The settlement agreed upon would be embodied in a document called a *kārār*, which legally bound all adult members. In large taravāds the allocation of separate houses and sometimes even of separate land to each segment was usually embodied in a kārār. All land continued to be managed by the kāranavan, but he paid a sum of paddy each year to the senior woman of each household from the land allotted to her segment.

Kārārs were, however, common only in village headmen's, chiefly, and royal property groups. Too little property was usually involved in the case of retainer Nayars, among whom effective daily management was divided between the kāranavan and the oldest woman. As we have seen, the former carried out all formal transactions outside the group, controlled the estate *in toto*, and disciplined men and boys. The latter organized feminine tasks and held more informal authority over women and small children. When the kāranavan was the son or younger brother of the eldest woman, management usually ran particularly smoothly. The oldest woman might indeed be *de facto* head

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rights. Thus did these *kúttams* (assemblies) exercise a wholesome influence, and act as a powerful check upon the rulers and ministers of the middle ages.[1] They also dealt with wider questions of castes and other matters affecting the welfare of the people. In former times there were also minor councils 623 of *Pramánis* or leaders of the people in every *Desam* exercising similar social functions. A survival of this system even now exists in every village, and their deliberations and decisions upon social matters and caste disputes have great weight. In important matters such as the outcasting of a member of the caste, etc., His Highness the Raja who has always been the [643] social as well as the political head of the State would deliberate [692] upon them with the help of the Brahman *vaidiks*, and his deci- sions become final. The individual who is placed under a ban [688] is prohibited from entering any temple, bathing in the public tanks, and is, in short, ostracised.

643

Administration of Justice.

The Rajas were in former times the fountain of all justice, but were assisted by *Karyakkars* or ministers 692 and Brahmans in administering it. All caste 623 disputes and offences were left to the caste assemblies to deal with, while civil disputes were either left to the arbitration of 685 the caste assemblies or of three or four prominent men. There 564 was no written code, but the punishments assigned by custom [677] fitted the crimes, and they varied with the status of the caste and of the person. The nobles enjoyed the privilege of freedom from confinement. The Brahmans and women were never put to death; the former were punished for grave offences by loss of caste and banishment, and the latter by being sold as slaves. The punishment of death was reserved for such heinous [688] offences as sacrilege, the wilful murder of a Brahman or a cow. The following is a summary of the account given by 175 Duarte Barbosa, pp. 116—117, regarding the methods of dealing 564 with criminals and the nature of the punishments inflicted on 685 them in former times:—When any member of a low-caste committed robbery about which a complaint had been made to the king or the governor, orders were issued for his apprehension, and if he was caught and he confessed his guilt, he was generally impaled. His head was severed, and the body being placed on its back, the arms and legs were fastened with ropes to four posts, while the multitude to show their contempt spat upon it. If, however, the malefactor was a Moor, he was beheaded. The

1. Letters from Malabar by J. C. Visscher, pages 76-77.

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564 stolen property went to the ruler of the State. If the stolen pro-
685 perty was discovered after the escape of the thief, it was returned
[643] to the owner after a certain number of days, and a fourth part
[425] was appropriated by the State. If, however, a thief refused to
[695] confess his guilt, he was confined for a period of eight days during which every method of torture known to the keepers of the prisons was tried to extort his confession. If he continued in reiterating his innocence, it was left to the accuser to elect
695 whether he should be let off or forced to undergo trial by ordeal.
175 In the latter case, on an auspicious day, the accused would be
685 allowed to bathe and recite his daily prayers, after which he was
564 conducted to the idol in the temple. Before the idol he swore that he had not committed the theft nor did he know the guilty person, and plunged his two fingers up to the middle joint into a caldron of boiling oil. If he was burnt, he was accounted guilty of the crime; if unhurt, he was liberated. Another form of proving the guilt or innocence of a prisoner who would not confess his crime, was to make him thrust his hand into a mantle in which a sacred and poisonous snake had been wrapped and force him to lift it out. If he was bitten, he was guilty. A third form was the wading through a tank full of alligators before a pagoda at Palliport, fifteen miles north of
175 Cochin, and if he survived he was considered innocent."[1] Con-
686 cerning the procedure against the debtors, a curious custom seems to have prevailed, which is thus described by *Varthema*:—

"Let us suppose the case that some one has to pay me twenty-five ducats, and the debtor promises me to pay them many times and does not pay them. I, not being willing to wait any longer, nor to give him any indulgence, shall take a green branch in my hand, shall go softly behind the debtor, and with the said branch shall draw a circle on the ground surrounding him; and if I can enclose him in a circle, shall say to him these words three times: 'I command you by the head of the Brahmans and the king that you do not depart hence, until you have paid me and satisfied me as much as I ought to have from thee,' and he will satisfy me or truly he will die without any other guard, and should he quit the said circle, the king will put him to death."

175 "It has been already said, that the nobles enjoyed ex-
564 emption and privileges, and that they could not be taken and
681 put in irons; but if a noble were to rob or kill any one or a cow or to sleep with a woman of low caste or of the Brahmans

1. Letters from Malabar by J. C. Visscher, pages 68–69.

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or if he ate and drank in the house of a low caste-man or spoke ill of the king, and if any one of these were established in his own words, the king would call three or four honorable gentlemen and have him put to death. After he was dead, they laid him on his back, to place the king's warrant on his breast. If he was left dead in the country, the dead was so exposed as a prey to vultures and dogs. If he was put to death in the city, the dead body was allowed to be removed either as a mark of favour, or on payment of fine, by the citizens with the king's permission. If, on the other hand, he commits any other offence, he would be dealt with in the same way as any criminal already described."

Cruel as the administration of justice might appear to be in ancient times, many early writers bear testimony to the fact that private property was as secure in the fourteenth century as it is to-day, and that security and justice were firmly established in the land. Varthema was impressed with the honesty of the inhabitants; and the favourable testimony of the previous writers was confirmed by Pyrard-De-Laval, a Frenchman, who remarked that justice was well administered and awarded gratuitously. These systems have been completely forgotten and given place to the institution of regular courts, where justice is administered in accordance with the principles of British jurisprudence.

Feudalism in the Cochin State.

From the earliest times, even perhaps before the Aryan immigration, there appears to have been a complete military organisation among the Sudras of Malabar. The country was divided into *Nádu*, or principalities, and the smallest territorial unit in it was a *Désam* (or village) presided over by a *Désavázhi* (ruler of a *Désam*). Each of the *Désams* and *Nádu* was designated by the allotted quota of Nayars it was required to put into the field. The names of these divisions, even after the long lapse of time, have not been forgotten. The authority of the chiefs of these military divisions, large and small, was hereditary in their respective families and they had appropriate titles of distinction. They were not always in attendance on the Raja's person. If not required on particular State duties or religious services, they were called out for offensive or defensive warfare.

A chief was not considered a *Náduvázhi* (ruler of a *Nád*), who had not at least a hundred soldiers attached to him, and one with less than that number was called a Désavázhi.